

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 78 of 1980

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SUBHASH CHANDRA KHURANA

Versus

STATE OF GUJARAT

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Appearance:

MR NR SHAHANI for Petitioners  
MS PS PARMAR for Respondent No. 1  
MR NV ANJARIA for Respondent No. 3  
None present for Respondent No. 2

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 23/06/97

ORAL JUDGEMENT

1. In all 18 petitioners, who were Lecturers in the Faculty of Technology & Engineering, M.S. University, Baroda, have filed this Special Civil Application and prayer has been made for quashing of the G.R. dated 8-3-1979 issued by the Government of Gujarat in so far as it prescribes the pay scale of Rs.650-1040 only for Sr.

Instructors who are the degree holders and for quashing and setting aside of the consequential order dated 22-12-1979 issued by the Registrar, M.S. University, Baroda, implementing the aforesaid pay scale from December, 1979.

2. The petitioners were initially appointed in the designation of Sr. Instructors in the Faculty of Technology & Engineering, M.S. University, Baroda, in the pay scale of Rs.300-600. They have been appointed after having been selected. The petitioners have come up with a case that in the Faculty of Technology & Engineering, there was no post of Assistant Lecturer. The counsel for the respondent also fairly conceded that in this faculty the post of Assistant Lecturer was not there and in the year 1966, the pay scale of the post of Sr. Instructor in the Faculty of Technology & Engineering was of Rs.300-600. The Baroda University Teachers' Association made a representation to the University in the matter of redesignating the Assistant Lecturers and Sr. Instructors and the syndicate has taken a decision in this respect and a copy of the same has been filed by the petitioners as annexure 'A'. I do not consider it necessary to go on this decision of the syndicate in depth, as I am of the opinion, that the matter deserves to be sent back to the Government for reconsideration.

3. It is not in dispute that the pay scale of the post of Assistant Lecturer at the relevant time was Rs.300-600. The petitioners were given the benefit of this resolution annexure 'A' with effect from the dates as given out in annexure 'B' and they were enjoying that benefits since those dates. The Government under its resolution dated 15th December, 1977 resolved to revise the pay scale of the post of Lecturer in the University and affiliated colleges including the Government colleges to Rs.700-1600. However, it is resolved under the said resolution that all the Assistant Lecturers in the lower pay scales shall be eligible for the pay scale prescribed for the Demonstrator/Tutor i.e. Rs.500-900. The dispute arises from the order dated 8th March, 1979 of the Government under which the pay scale has been revised of the Teachers in the Faculty of Technology & Engineering, M.S. University, Baroda. The pay scale of Sr. Instructors has been prescribed to be Rs.650-1040 for degree holders and that order has been sought to be implemented by the University by reducing the pay scale of the petitioners. The petitioners on that date were already working in the pay scale of Rs.700-1600. The petitioners have filed representation in this respect,

but nothing has been done. Hence, this Special Civil Application.

4. It is not in dispute that the petitioners have been protected by grant of interim relief by this Court. So far as the University is concerned, it has not contested this Special Civil Application, and it supports the claim of the petitioners. The Government has contested this Special Civil Application and main thrust of the contest is that the post of Sr. Instructor has to be equated with the post of Demonstrator/Tutor. The pay scale of Tutors and Demonstrators were of Rs.250-400. The respondent-Government has tried to give out that the qualifications for appointment of the posts of Assistant Lecturer and Sr. Instructor in the Faculty concerned were different. The qualifications for appointment to the post of Assistant Lecturer was higher than the qualifications for the post of Sr. Instructor. However, the respondent-Government has failed to give out any defence to the fact that the pay scale of the post of Sr. Instructor in the faculty was at the relevant time Rs.300-600. Not only in the reply but during the course of arguments, the counsel for the respondent-State was unable to give out any justification for equation of the pay scale Rs.300-600 to Rs.250-400. The petitioners were appointed in the pay scale of Rs.300-600 long back and for all these years till they have been taken as Lecturers and till the year 1979, no objection whatsoever has been raised on this ground. It is not the case of respondent-Government that the pay scale of Rs.300-600 for Sr. Instructors in the Faculty concerned has not been approved by the Government. The decision taken by the Government in respect of the pay scale of Sr. Instructors should have been taken only after giving the petitioners a reasonable opportunity of hearing. This opportunity was admittedly not given to the petitioners before reducing their pay. Many things have remained unexplained from the Government which have a vital importance in the matter. This Court has already protected the petitioners. It is also not in dispute that many of the petitioners are already promoted to the next higher post of Readers. The petitioners' pay have been fixed in the revised pay scale. However, it is correct on the part of the respondent-Government to say that all the benefits have been received by the petitioners under the interim order of this Court, but this matter has to be decided after giving a notice and opportunity of hearing to the petitioners and keeping in view particularly the fact that the post of Sr. Instructor in the Faculty concerned was in the pay scale of Rs.300-600 and the petitioners have been appointed in

this pay scale. Any pay scale prescribed lower than the existing pay scale may be a reduction of the pay scale and before taking such a decision, the principles of natural justice have to be followed i.e. the affected persons should have been given an opportunity of proper and effective hearing. Moreover, the petitioners have come up with a case that in the Faculty concerned there was no post of Assistant Lecturer, and pay scale of the Assistant Lecturer was of Rs.300-600 is another matter which needs consideration.

5. In the result, this Special Civil Application is disposed of with the direction that the petitioners may submit a detailed representation to the Secretary to the Government, Education Department at Gandhinagar within a period of two months from the date of receipt of certified copy of this order in respect of their grievance made in this Special Civil Application. On receipt of the representation, the Secretary of the Department shall decide the same on merits after giving an opportunity of hearing to the petitioners within a period of six months of the receipt thereof. In case the Secretary does not accept the grievance of the petitioners then he shall pass a reasoned order and a copy of the same may be sent to the petitioners. The interim relief granted by this Court shall continue till the matter is decided by the Secretary and in case, the same is decided against the petitioners, then it shall remain in force for further one month. The Special Civil Application and Rule stands disposed of in the aforesaid terms with no order as to costs.

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